

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA

EARL HILLSBERG,	)	
	)	
Petitioner,	)	
v.	)	No. 2:10-cv-0236-WTL-DML
	)	
HELEN J. MARBERRY, Warden,	)	
	)	
Respondent.	)	

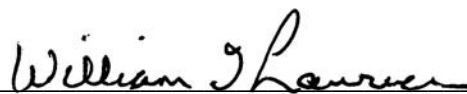
**Entry Discussing Petition for Writ of Habeas Corpus**

"Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face." *McFarland v. Scott*, 512 U.S. 849, 856 (1994). This is an appropriate case for such a disposition. This conclusion is compelled by the following facts and circumstances:

1. The petitioner's request to proceed *in forma pauperis* (dkt 2) is **granted**.
2. Earl Hillsberg is confined at a federal prison in this District and seeks habeas corpus relief pursuant to 28 U.S.C. § 2241(c)(3) based on his contention that the Federal Bureau of Prisons ("BOP") has improperly retained him in a prison rather than a community-based halfway house during the last 10% of his sentence.
3. The pivotal point for the present is understanding what remedy is authorized and appropriate for Hillsberg's challenge. As noted in *Jasperson v. Federal Bureau of Prisons*, 460 F.Supp.2d 76, 81 (D.D.C. 2006), the Seventh Circuit has held that habeas is not an available remedy in this context, but rather that prisoners must bring civil actions utilizing the Administrative Procedures Act. This was determined in *Richmond v. Scibana*, 387 F.3d 602 (7th Cir. 2004), and is fatal to Hillsberg's claim here.
4. Hillsberg's habeas petition shows on its face that he is not entitled to the relief he seeks. Judgment dismissing this action without prejudice shall now issue.

**IT IS SO ORDERED.**

Date: 09/07/2010

  
Hon. William T. Lawrence, Judge  
United States District Court  
Southern District of Indiana